

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IGY OCEAN BAY PROPERTIES LIMITED and
ISLAND GLOBAL YACHTING LTD.

Plaintiffs

V.

Civil Action No. 07-10520

OCEAN BAY PROPERTIES I LIMITED,
OCEAN BAY PROPERTIES II LIMITED,
BRITISH COLONIAL DEVELOPMENT COMPANY
LIMITED, PRK HOLDINGS LTD., ADURION
CAPITAL LIMITED and GEORGE ALLEN,

Defendants

DECLARATION OF JOHN T. MORIN

I, John T. Morin, pursuant to 28 U.S.C. §1746, declare under penalty of perjury under the laws of the United States of America, that the following is true and correct:

1. I am a member of the firm of Wormser, Kiely, Galef & Jacobs LLP, and serve as co-counsel, along with the firm of Weil, Gotshal & Manges LLP for defendants Ocean Bay Properties I Limited (“OBI”), Ocean Bay Properties II Limited (“OBII”), British Colonial Development Company Limited (“BCDC”), PRK Holdings Ltd. (“PRK”), Adurion Capital Limited (“Adurion”) and George Allen (“Allen” and, collectively with OBI, OBII, BCDC, Adurion, and PRK, the “Defendants”).

2. I am familiar with the pleadings and the facts underlying this matter; and I make this Declaration to (i) provide an outline of the motions being made, and (ii) introduce the Declarations submitted on behalf of the Defendants and the documents relevant to the motions.

3. Defendants PRK, Adurion and Allen hereby seek to dismiss, pursuant to Fed. R. Civ. P. 12(b)(2), the claims asserted against them by plaintiffs IGY Ocean Bay Properties Limited (“IGY”) and Island Global Yachting Ltd. (“IGYL” and, collectively with IGY, the “Plaintiffs”) on the grounds that PRK, Adurion and Allen are not subject to the personal jurisdiction of this Court. In support of this motion, PRK, Adurion and Allen also submit the Declarations of Eugene Fraser, the President of Defendant PRK (Exhibit E hereto); Dr. Jürg Gassmann, the General Counsel to, and non-executive Director of, Defendant Adurion (Exhibit F hereto); and Defendant George Allen (Exhibit G hereto).

4. In the alternative, PRK, Adurion and Allen also move to dismiss, pursuant to Fed. R. Civ. P. 12(b)(6), all causes of action asserted against them on the grounds that each cause of action fails to state a claim upon which relief may be granted.

5. Defendants OBI, OBII and BCDC move to dismiss, pursuant to Fed. R. Civ. P. 12(b)(6) all causes of actions asserted against them on the grounds that each cause of action fails to state a claim upon which relief may be granted.

BACKGROUND

6. Plaintiffs’ complaint, a copy of which is annexed as Exhibit A (“Complaint”), was originally filed in the Supreme Court of the State of New York, New York County on or about October 9, 2007. (See Dkt. Entry No. 1) This matter was duly removed to this Court on November 21, 2007. Following the filing and removal of this matter, Plaintiffs and Defendants entered into an agreement pursuant to which Defendants were authorized to respond to the Complaint by or before January 15, 2008.

7. As alleged in the Complaint, this case arises out of, or is in some way related to, a Purchase Agreement, dated November 7, 2005 ("Purchase Agreement") allegedly between OBI, OBII, and BCDC as "Sellers" and IGY as "Purchaser". A copy of the Purchase Agreement is annexed hereto as Exhibit B.

8. In connection with the marina development which was the subject of the Purchase Agreement, Purchaser alleges that it received an "Approval in Principle" from the Bahamian Ministry of Financial Services and Investments, dated December 7, 2006, which granted preliminary approval for the development, subject to a list of conditions to be satisfied by Purchaser. A copy of the Approval in Principle is attached hereto as Exhibit C.

9. As further alleged in the Complaint, defendants OBI, OBII and BCDC allegedly terminated the Purchase Agreement by a notice to the IGY dated July 5, 2007 (a copy of which is annexed hereto as Exhibit D).

WHEREFORE, Declarant respectfully requests that the Court dismiss the Complaint in its entirety.



John T. Morin

Executed in New York, New York
on December 20 2007